

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT  
SAN JUAN, PR

NEREIDA CANCEL DE RUGG,  
Plaintiff

v.

TOGO WEST, Secretary fo the Army;  
WILLIAM COHEN, Secretary of  
Defense; JOHN DOE and RICHARD  
DOE,  
Defendants

CIVIL No. 97-1594 (JAG)

MAGISTRATE'S JUDGE'S REPORT AND RECOMMENDATION

This matter is before the court on motion for reconsideration filed by plaintiff Nereida Cancel de Rugg, on October 16, 2000. (Docket No. 99.) On November 21, 2000, defendant's filed a motion responding to plaintiff's motion for reconsideration as well as a motion to alter or amend the judgment. (Docket No. 101.) In said Opinion and Order, subject of this reconsideration, (Docket No. 87.), the court granted summary judgment in favor of defendants as to the sexual harassment charges and as to plaintiffs' 14 day suspension, but denied defendants' motion as to the two performance evaluations and permanent dismissal of the plaintiff from her employment. (Docket No. 87.)

Plaintiff asks this court to reconsider its judgment as to the sexual harassment charges as well as to her 14 day suspension and resolve that these claims constitute adverse employment actions against her. (Docket No. 99.) The court entered judgment dismissing these claims on the grounds that defendants had set forth non-discriminatory reasons for their actions against the plaintiff and not because they did not constitute adverse employment actions. (Docket No. 87.) Plaintiff has failed to offer substantial new evidence that would warrant reconsideration as to these claims. Therefore, I recommend the court DENY plaintiff's motion for reconsideration.

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1 CIVIL 97-1594 (JAG)

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4 Defendants request that the court alter or amend the judgment by finding that no  
5 genuine issue of material facts exists regarding plaintiff's claim that her removal was  
6 motivated by discrimination and retaliation. (Docket No. 101.) On July 10, 2000, this court  
7 found that there was a genuine issue of material facts regarding defendant's reasons for  
8 plaintiff's removal. (Docket No. 87.) A review of both plaintiff's and defendant's  
9 arguments, leads me to recommend that the motion to alter or amend be DENIED. There  
10 is yet a genuine issue of material facts concerning the reasons for plaintiff's removal from  
11 the San Juan MEPS.

12 Under the provisions of Rule 510.2, Local Rules, District of Puerto Rico, any party  
13 who objects to this report and recommendation must file a written objection thereto with  
14 the Clerk of this Court within ten (10) days of the party's receipt of this report and  
15 recommendation. The written objections must specifically identify the portion of the  
16 recommendation, or report to which objection is made and the basis for such objections.  
17 Failure to comply with this rule precludes further appellate review. See Thomas v. Arn, 474  
18 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111 (1986); Davet v. Maccorone, 973 F.2d  
19 22, 30-31 (1<sup>st</sup> Cir. 1992); Paterson-Leitch Co. v. Massachusetts Mun. Wholesale Elec. Co.,  
20 840 F.2d 985 (1<sup>st</sup> Cir. 1988); Borden v. Secretary of Health & Human Servs., 836 F.2d 4,  
21 6 (1<sup>st</sup> Cir. 1987); Scott v. Schweiker, 702 F.2d 13, 14 (1<sup>st</sup> Cir. 1983); United States v.  
22 Vega, 678 F.2d 376, 378-79 (1<sup>st</sup> Cir. 1982); Park Motor Mart, Inc. v. Ford Motor Co., 616  
23 F.2d 603 (1<sup>st</sup> Cir. 1980).

24 At San Juan, Puerto Rico, this 1<sup>st</sup> day of November, 2001.

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27 JUSTO ARENAS  
28 United States Magistrate Judge